

FREEDOM OF INFORMATION ACT ANNUAL REPORT INTERNAL REVENUE SERVICE

Fiscal Year 2002
October 1, 2001 through September 30, 2002

I. Basic Information Regarding the Report

A. Questions concerning this report may be directed to:

Director, Office of Disclosure
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224
SE:S:C&L:GLD:D

B. This report is available on the web at: <http://www.irs.gov/foia/index.html>

C. Copies of this report may be requested at the address provided in A. above.

II. How to Make a FOIA Request

A. FOIA requests for IRS records may be sent to any IRS Disclosure Office. Addresses are listed in the IRS FOIA regulations at 26 C.F.R. 701.602 or are available on the web at: [IRS Disclosure Offices](#).

Time Ranges of Responses

B. Response times are from 1 to 1000 days, with an average response time of 41 days.

Why Some Requests are Not Granted

C. The majority of the requests denied by the IRS are requests for confidential tax information being sought by individuals who are not authorized to receive it, or are requests related to tax investigations, the disclosure of which would seriously impair federal tax administration.

III. Definitions of Terms and Acronyms Used in Report

A. Agency Specific None.

B. Basic Terms Please see consolidated Treasury Report.

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IV. Supporting Statutes Used with Exemption (b)(3)

A. Listing and brief description of type of information withheld under each statute:

- 26 U.S.C. 6103 Confidentiality of Returns and Return Information: Prohibits the disclosure of (1) tax returns and return information of third party taxpayers (section 6103(a)); (2) the standards used for selection of returns for examination (section 6103(b)(2)); and (3) a requester's own return information if the disclosure would seriously impair federal tax administration (section 6103(e)(7)).
- 31 U.S.C. 5319 Bank Secrecy Act Records: Prohibits the disclosure of records; used to withhold Currency Transaction Reports.
- 26 U.S.C. 6105 Internal Revenue Code section 6105 states that tax convention information shall not be disclosed, except as specifically stated in Internal Revenue Code section 6105(b).
- Rule 6(e) Part of the Federal Rules of Criminal Procedure-Grand Jury Secrecy; used to withhold records on matters occurring before a Grand Jury.
- 18 U.S.C. 701 Official badges, identification cards. Prohibits the reproduction of official identification media. Used to withhold copies of IRS employee identification badges and pocket commissions.
- 5 U.S.C. 7114 Delineates the rights and duties of a labor organization which is the exclusive representative of the employees in the unit it represents.

B. Statement of whether a court has upheld the use of each statute:

- 26 U.S.C. 6103 *Church of Scientology v. IRS*, 484 U.S. 9 (1987); *Aronson v. IRS*, 973 F.2d 962 (1st Cir. 1992); *Stebbins v. Sullivan*, No. 90-5361, slip op. at 1 (D.C. Cir. July 22, 1992); *Wishart v. Commissioner*, C-97-20614-SW (N.D. Cal., decided August 6, 1998); and others.
- 31 U.S.C. 5319 *Small v. IRS*, 820 F. Supp. 163 (D.N.J. 1992)
- Rule 6(e) *Fund for Constitutional Gov't v. National Archives & Records Service*, 656 F. 2nd 856, 867 (D.C. Cir. 1981); *Walston v. U.S. Department of Justice*, 799 F. Supp. 193, 195 (D.D.C. 1992).

| | |
|-----------------------|---|
| <u>18 U.S.C. 701</u> | Not litigated. |
| <u>26 U.S.C. 6105</u> | Tax Analysts v. IRS, No. 99-0372, 2002 WL 1791162 (D.D.C. Aug. 6, 2002) |
| <u>5 U.S.C. 7114</u> | <i>Dublin v. Dept. of the Treasury</i> , 555 F. Supp. 408, 412 (N.D. Ga. 1981), <u>aff'd</u> , 697 F.2d 1093 (unpublished table decision); <i>NTEU v. OPM</i> , No. 76-695, slip op at 49 D.D.C. July 9, 1979). |

V. Initial FOIA/PA Access Requests

A. Number of initial requests:

| | |
|--------------------------------------|--------|
| 1. Requests Pending as of 10/01/01 | 4,605 |
| 2. Requests Received during FY 2002 | 33,722 |
| 3. Requests Processed during FY 2002 | 34,069 |
| 4. Requests Pending as of 09/30/02 | 4,258 |

B. Disposition of initial requests:

| | |
|-------------------|--------|
| 1. Total Grants | 14,085 |
| 2. Partial Grants | 2,370 |
| 3. Total Denials | 297 |

3a. Number of times each FOIA exemption was used (counting each exemption once per

case):

| Exemption | Use | Exemption | Use | Exemption | Use |
|-----------|------|-----------|-----|-----------|------|
| (b)(1) | 0 | (b)(6) | 544 | (b)(7)(E) | 1129 |
| (b)(2) | 108 | (b)(7)(A) | 301 | (b)(7)(F) | 9 |
| (b)(3) | 2245 | (b)(7)(B) | 3 | (b)(8) | 0 |
| (b)(4) | 40 | (b)(7)(C) | 775 | (b)(9) | 0 |
| (b)(5) | 378 | (b)(7)(D) | 174 | | |

4. Other reasons for non-disclosure of requested information:

| | |
|---|--------|
| Total of Others (as categorized below) | 17,317 |
| No Records | 7,200 |
| Referrals | 1,558 |
| Request Withdrawn | 304 |
| Fee-related reason | 0 |
| Not a proper FOIA request for some other reason | 6,152 |
| Misc. other reasons for not processing a request* | 2,103 |

*Closed without determination because an appeal was filed; the records had previously been provided to the requester; or, the requester had not paid the fee from a previous request.

VI. Appeal of Initial Denials of FOIA/PA Requests

A. Number of appeals:

| | |
|-----------------------------|-----|
| 1. Received during FY 2002 | 435 |
| 2. Processed during FY 2002 | 673 |

B. Disposition of appeals.

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| | |
|------------------------|-----|
| 1. Completely upheld | 435 |
| 2. Partially reversed | 106 |
| 3. Completely reversed | 22 |

3a. Number of times each FOIA exemption was used in a completely or partially upheld appeal case (counting each exemption once per case):

| Exemption | Use | Exemption | Use | Exemption | Use |
|-----------|-----|-----------|-----|-----------|-----|
| (b)(1) | 0 | (b)(6) | 34 | (b)(7)(E) | 35 |
| (b)(2) | 25 | (b)(7)(A) | 15 | (b)(7)(F) | 0 |
| (b)(3) | 101 | (b)(7)(B) | 1 | (b)(8) | 0 |
| (b)(4) | 1 | (b)(7)(C) | 65 | (b)(9) | 0 |
| (b)(5) | 35 | (b)(7)(D) | 19 | | |

4. Other reasons for non-disclosure during appeal process:

| | |
|---|-----|
| Total of Others (as categorized below) | 120 |
| a. No Records | 9 |
| b. Referrals | 11 |
| c. Withdrawn | 75 |
| d. Fee-related | 0 |
| e. Records not reasonably described | 1 |
| f. Treated as a non-appeal | 12 |
| g. Not an agency record | 0 |
| h. Duplicate request | 0 |
| i. Other (litigation due to failure to respond) | 12 |

VII. Compliance with Time Limits/Status of Pending Requests

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A. Median time for processing requests:

| | | |
|--------------------|----------------------------------|-----|
| 1. Simple Requests | | |
| a. | Number of requests processed | 0 |
| b. | Median number of days to process | N/A |

| | | |
|-----------------------|----------------------------------|--------|
| 2. Complex Requests | | |
| a. | Number of requests processed | 34,069 |
| b. | Median number of days to process | 24 |
| 3. Expedited Requests | | |
| a. | Number of request processed | 0 |
| b. | Median number of days to process | N/A |

B. Status of pending requests (as of September 30, 2002):

| | |
|-----------------------------|-------|
| Number of requests pending | 4,258 |
| Median age of pending cases | 25 |

VIII. Comparison with Previous Year (Optional). Comparison not made.IX. Costs/FOIA Staffing

A. Staffing levels, given in number of positions in agency:

| | |
|--|----|
| Full-time FOIA personnel | 14 |
| Personnel with part-time or occasional FOIA duties (composite total, in work years) | 46 |
| Total personnel (in composite work years) | 60 |

B. Total costs (including all staff and resources):

| | |
|---|--------------|
| FOIA processing (including appeals) | \$ 4,830,523 |
| Litigation related activities (estimated) | \$ 259,544 |
| Total Costs | \$ 5,090,067 |

X. Fees

| | |
|---|------------|
| Total fees collected by the agency during FY 2002 | \$ 133,169 |
| Percentage of total costs | 2.6% |